

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

M71092
E/sl

ROBERT A. SPOLZINO, J.P.
DAVID S. RITTER
THOMAS A. DICKERSON
ARIEL E. BELEN, JJ.

2007-03088, 2007-03089

DECISION & ORDER ON MOTION

Esther York, appellant,
v Joseph York, defendant;
Jay Landa, nonparty respondent.

(Index No. 210224-93)

Motion by the nonparty respondent to strike the appellant's brief on appeals from an order and a judgment of the Supreme Court, Queens County, dated January 25, 2007, and March 13, 2007, respectively, and to enlarge the time to serve and file a brief. Cross motion by the appellant, in effect, for leave to serve and file a supplemental record containing certain documents

Upon the papers filed in support of the motion and the cross motion, and the papers filed in opposition thereto, it is

ORDERED that the branch of the motion which is to strike the appellant's brief is denied on condition that, and the cross motion is granted to the extent that, on or before June 30, 2008, the appellant file with this court copies of the following documents:

- (1) order of the Supreme Court, Queens County, dated March 16, 2004;
- (2) notice of motion for reargument and affidavit of Jay Landa dated March 23, 2004, with exhibits;
- (3) affidavit of Esther York in opposition dated April 8, 2004;
- (4) affirmation of Martin Robson in opposition dated April 1, 2004;
- (5) affirmation of Andrew Bensi in opposition dated June 8, 2004;
- (6) order of the Supreme Court, Queens County, dated June 9, 2004;
- (7) proposed order to show cause of the Supreme Court, Queens County, submitted by the appellant on April 4, 2005, with exhibits;

(8) hand written rejection notice of the Supreme Court, Queens County, dated April 4, 2005;

(9) order to show cause of the Supreme Court, Queens County, dated April 5, 2005, with affidavit of Esther York dated April 5, 2005, affirmation of David Singer dated April 1, 2005, and exhibits; and it is further,

ORDERED that on or before June 30, 2008, the respondent shall provide the appellant with any corrections to the transcripts filed with this court, including the transcripts dated June 9, 2004, and September 12, 2004; and it is further,

ORDERED that if the parties cannot agree on any proposed changes to the transcripts the appellant shall make a motion to settle the transcripts in the Supreme Court, Nassau County, on or before July 14, 2008, and shall notify this court accordingly; and it is further,

ORDERED that if the parties agree on the proposed changes on or before July 14, 2008, the appellant shall serve and file a supplemental appendix containing an errata sheet; and it is further,

ORDERED that the branch of the motion which is to enlarge the nonparty respondent's time to serve and file a brief is granted, the nonparty respondent's time to serve and file a brief is enlarged until July 30, 2008, and the nonparty respondent's brief must be served and filed on or before that date; and it is further,

ORDERED that the motion is otherwise denied.

SPOLZINO, J.P., RITTER, DICKERSON and BELEN, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court